

REMARKS

Claims 1-3 and 5-19 are all the claims pending in the application after entry of the present Amendment.

I Claim Rejection under 35 U.S.C. § 102

Claims 1, 3, 8, 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemilainen et al. (US Patent Number 6,681,259 [hereinafter “Lemilainen”]).

Rejections under 35 U.S.C. §102 are proper only when the applied art discloses each of the claimed features. Lemilainen fails to disclose each feature of independent claims 1, 11 and 12.

Claim 1 is amended to incorporate the features of claim 4 and, as recognized by the Examiner, includes features not disclosed by Lemilainen. This is evidenced by at least Lemilainen not being applied as anticipatory art against original claim 4. Therefore, it is respectfully requested that the rejection of claim 1 under 35 U.S.C. § 102(e) be withdrawn. The rejection of claims 3 and 8 should also be withdrawn at least due to their respective dependencies on claim 1.

Claims 11 and 12 recite, *inter alia*, that when the data signal to be transmitted is a periodically transmitted data signal, said one of said plurality of radio transmitting/receiving devices which is selected has a higher communication speed than others of the radio transmitting/receiving devices. Lemilainen does not disclose to select a transmitting/receiving device having a higher communication speed when the data signal to be transmitted is a periodically transmitted data signal. Therefore, Lemilainen fails to disclose each feature of claims 11 and 12, such that the rejection thereof should be withdrawn. The rejection of claims

14 and 15 should also be withdrawn at least due to their respective dependencies on claim 12.

II Claims Rejection under 35 U.S.C. § 103

Claims 2, 4-5, 7, 10, 13 and 17

Claims 2, 4-5, 7, 10, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemilainen. Applicant takes this opportunity to explain why Lemilainen does not teach or suggest the features of original claim 4, which are now incorporated in claim 1. For example, claim 1 recites, *inter alia*:

“wherein said selecting means selects a radio transmitting/receiving device having a higher communication speed from said plurality of radio transmitting/receiving devices as said one radio transmitting/receiving device when said data signal to be transmitted is a periodically transmitted data signal”

The Examiner acknowledges Lemilainen’s lack of explicit disclose regarding this feature and therefore cites col. 3, lines 30-33 of Lemilainen. Lemilainen does not teach or suggest this feature. For example, the relied upon portion of Lemilainen discloses, at column 3, lines 30-33, that “[t]his invention also makes it possible to use all the data transmission networks available at a time, the data transmission network, in which the best possible connection quality is achieved.” The Examiner therefore contends that it would be obvious to a person of ordinary skill in the art to select the higher speed when the data signal to be transmitted or received has a periodically data signal. However, it is respectfully submitted that the Examiner’s position is attenuated because Lemilainen does not teach or suggest a relationship between a communication speed and the quality of a connection; and also does not teach or suggest a relationship between communication speed and periodically transmitted data. Because the best quality connection “could” be the fastest speed (as asserted by the Examiner) does not provide the requisite teaching necessary to teach or suggest each of the claimed features.

Moreover, Lemilainen does not teach or suggest a terminal device which transmits or receives a data signal at “predetermined intervals,” as recited in claim 1. It, therefore, naturally follows that Lemilainen does not teach or suggest the features of claim 1 regarding the selecting means that selects a radio transmitting/receiving device having a higher communication speed ... when said data signal to be transmitted is a periodically transmitted data signal. As a skilled artisan will appreciate, a communication system including a network or communication line through which a data signal can only be transferred at a low speed, does not necessarily provide a low connection quality. For at least the above-noted reasons, Lemilainen does not teach or suggest the combination of features found in claim 1.

Accordingly, Applicant submits that one would not have been taught or suggested the features of claim 1 in view of Lemilainen, such that claims 2, 5, 7, 10 are patentable at least due to their respective dependencies on claim 1.

Claims 6, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemilainen in view of Willins et al. (US Publication Number 2003/0021250 [hereinafter “Willins”]).

The grounds of the rejection acknowledge that Lemilainen does not teach or suggest the features of claims 6, 9 and 16, and therefore relies on Willins. Applicant respectfully submits that Willins fails to make up for the deficient teachings of Lemilainen in regard to claims 1 and 12, such that claims 6, 9 and 16 are patentable over the applied art at least due to their respective dependencies on claims 1 and 12.

Amendment Under 37 C.F.R. § 1.1149(c)
U.S. Application No. 09/961,282

Attorney Docket No. Q66381

III New Claims

New claims 18 and 19 are added to obtain more varied protection for the invention. Claims 18 and 19 are submitted to be patentable over the applied art at least due to their respective dependencies on claim 11.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

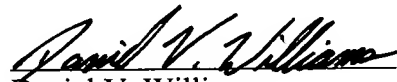
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